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Appl. No. 10/688,096
Response Dated June 11, 2007
Reply to Office Action of March 9, 2007

• • R E M A R K S / A R G U M E N T S • •

The Official Action of March 9, 2007 has been thoroughly studied. Accordingly, the changes presented herein for the application, considered together with the following remarks, are believed to be sufficient to place the application into condition for allowance.

By the present amendment, independent claim 1 has been changed to recite that the first elastic segment extends substantially along peripheral portions forming leg-holes, from and across a transversely middle zone of said crotch region to lateral portions of said front and rear waist regions so that transversely opposite inner edges of said first elastic segment have shapes that curve transversely outward from a longitudinal central portion to longitudinal opposite ends of said first elastic segment.

In addition, independent claim 1 has been changed to recite that the second elastic segment is defined by a remaining portion of the chassis which consists of the entire chassis exclusive of the first elastic segment

Support for these changes to independent claim 1 can readily be found in the drawings, particularly Figs. 2, 5 and 7.

Entry of the changes to the claims is respectfully requested.

Claims 1-10 are pending in the application.

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Claims 1, 2 and 5-7 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,447,508 to Numano et al.

Claims 3 and 8-10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Numano et al.

Claim 4 stands stand rejected under 35 U.S.C. §103(a) as being unpatentable over Numano et al. in view of European Patent Application No. EP 1 243 237 A2 to Mishima et al.

For the reasons set forth below, it is submitted that all of the pending claims are allowable over the prior art of record and therefore, each of the outstanding rejections of the claims should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

The Examiner has relied upon Numano et al. as describing:

...a disposable pants-type wearing articles comprising an elastically stretchable chassis (col. 3, lines 11-12), having a front waist region 5, a rear waist region 6, and a crotch region 7 extending therebetween. The chassis is composed of a first elastic segment 11 extending substantially along peripheral portions forming leg holes from a transversely middle zone of the crotch region 7 to lateral portions 17 and 18 of front and rear waist regions so that a transversely inner edge of the first elastic segment 11 has a shape that curves transversely outward from a longitudinal central portion to longitudinal opposite ends of the first elastic segment (Figure 1, col. 2, line 58 through col. 3, line 3). The second elastic segment 12 is defined by a remaining portion of the chassis except for the first elastic segment 11. As broadly claimed, the examiner interprets a remaining portion of the chassis to include any part of the chassis that does not define the first elastic segment, such as the leg opening where elastic 12 starts to the regions 15 and 16 where the elastic 12 terminates (col. 3, lines 3-8). Numano discloses the elastic segments have a stretch stress higher in the crotch zone 7 as compared to the front and rear zones 5, 6 (col. 3, lines 25-31). While both elastics 11 and 12 have this variance in stretch stress, claim 1 reads "a stretch stress higher than that of said elastic segment". The portion of elastic 11 in the crotch zone

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L7 is higher than the stretch stress of the elastic 12 in the front and rear bodies L5 and L6 respectively.

Applicants' independent claim 1, as presently amended requires, in part:

...a first elastic segment extending substantially along peripheral portions forming leg-holes, from and across a transversely middle zone of said crotch region to lateral portions of said front and rear waist regions so that transversely opposite inner edges of said first elastic segment have shapes that curve transversely outward from a longitudinal central portion to longitudinal opposite ends of said first elastic segment, and a second elastic segment defined by a remaining portion of said chassis except for said first elastic segment...

The Examiner has relied upon elastic segments 11 and 12 of Numano et al which are described and shown as "extending in parallel with transversely opposite side edges 13, 14 of a crotch zone 7" as reading on applicants' claimed first and second elastic segments, respectively.

However, whereas applicants' first elastic segment is recited as:

1) "extending substantially along peripheral portions forming leg-holes, from and across a transversely middle zone of said crotch region to lateral portions of said front and rear waist regions;" and

2) having "transversely opposite inner edges [that] have shapes that curve transversely outward from a longitudinal central portion to longitudinal opposite ends of said first elastic segment..."

The examiner's "first elastic segment" is elastic member 11 of Numano et al. extend only along the leg-opening in the crotch region 7 as described and shown.

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Therefore, the examiner's "first elastic segment 11" of Numano et al.:

1) does not extend across a transversely middle zone of said crotch region as required by applicants' independent claim 1; and

2) does not have opposite inner edges that have shapes that curve transversely outward from a longitudinal central portion, as required by applicants' independent claim 1.

Thus, it is submitted that the Examiner cannot rely upon Numano et al.'s elastic member 11 as reading on applicants' claimed first elastic segment.

Even though the Examiner has taken the position that Numano et al. teaches that a "transversely inner edge of the first elastic segment 11 has a shape that curves transversely outward from a longitudinal central portion to longitudinal opposite ends of the first elastic segment," it is noted that the structure that the Examiner refers does not "curve[s] transversely outward from a longitudinal central portion to longitudinal opposite ends of the first elastic segment."

The "longitudinal central portion" is necessarily in the crotch region (which in longitudinally between the front and rear waist regions). In the crotch region, the elastic member 11 of Numano et al. is parallel to the leg-opening and beyond the crotch regions the ends of the elastic member 11 curve "inward" toward transversely opposite sides of the diaper.

Accordingly, the elastic member 11 of Numano et al. curve "inward" rather than "outward" from the longitudinal central portion (and does not have opposite transversely inner edges) as claimed.

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It is further noted that the Examiner has interpreted applicant's claimed second elastic segment as "a remaining portion of the chassis [that includes] any part of the chassis that does not define the first elastic segment, such as the leg opening where elastic 12 starts to the regions 15 and 16 where the elastic 12 terminates."

In order to clarify the description of the second elastic segment, independent claim 1 has been changed to recite that the second elastic segment is defined by a remaining portion of the chassis which consists of the entire chassis exclusive of the first elastic segment.

This recitation precludes the Examiner from isolating and interpreting elastic member 12 of Numano et al. as reading on applicants' claimed second elastic segment.

It is noted that with regard to the stretch stress limitation the Examiner has stated;

Numano discloses the elastic segments have a stretch stress higher in the crotch zone 7 as compared to the front and rear zones 5, 6 (col. 3, lines 25-31). While both elastics 11 and 12 have this variance in stretch stress, claim 1 reads "a stretch stress higher than that of said elastic segment". The portion of elastic 11 in the crotch zone L7 is higher than the stretch stress of the elastic 12 in the front and rear bodies L5 and L6 respectively.

The Examiner has attempted to isolate portions of the elastic member 11 and elastic member 12 of Numano et al. to support a position that "some portion" of elastic member 11 has a stretch stress that is higher than "some portion" of elastic member 12.

The Examiner seems to have failed to consider that independent claim 1 recites that:

...said first elastic segment has a stretch stress higher than that of said second elastic segment.

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The fact is the elastic members 11 and 12 are essentially materially identical and are symmetrical to one another and therefore have equal stretch stress values.

The Examiner has relied upon Mishima et al. as teaching a protrusion in an absorbent article. This reliance upon Mishima does not address or overcome the Examiner's reliance upon Numano et al.

Moreover, it is noted that Mishima et al. does not teach a protrusion that has a free distal end. In this regard, Mishima et al teach a "cylinder guide" that has an open end that is supported by an elastically stretchable member 20 as shown in Fig. 2.

As presently amended applicants' dependent claim 4 requires a protrusion that has a free distal end.

Mishima et al. does not teach or suggest applicants' claimed protrusion.

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §102 as anticipating applicants' claimed invention.

Moreover, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §103 to establish a *prima facie* case of obviousness of applicants' claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

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It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejection of the claims should hence be withdrawn.

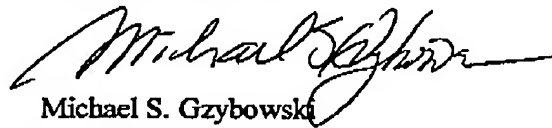
Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

If upon consideration of the above, the Examiner should feel that there remains outstanding issues in the present application that could be resolved, the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,



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